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TECHNOLOGY CENTER 3600

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In re Application of	:	DECISION ON PETITION
Gary Carlton Johnson	:	TO ENTER
Serial No: 10/021,656	:	REPLACEMENT
Filed: December 12, 2001	:	DRAWINGS
For: JOHNSON-POSTIVE ACTION CONTINUOUS	:	
TRACTION (P.A.C.T.) VEHICLE DIFFERENTIAL:	:	

This is a decision on the petition under 37 CFR 1.181 filed October 31, 2006 to reconsider the petition decision mailed October 6, 2006 denying entry of the March 2, 2006 replacement drawing and to enter the March 2, 2006 replacement drawing.

The petition is **DENIED**.

A review of the application file history reveals that applicant filed proposed new drawings ON July 31, 2003. The Office action mailed October 16, 2003 disapproved of the proposed drawings because of the introduction of new matter. On November 12, 2004 applicant filed replacement drawings. The June 28, 2005 Office action refused entry of the November 12, 2004 replacement drawings because they included added support stock protruding from axial sides of the differential case. Applicant again filed replacement drawings March 2, 2006. An Advisory Action mailed March 22, 2006 refused entry of the March 2, 2006 drawings because they raised the issue of new matter as discussed in the December 6, 2005 Office action. The petition decision mailed October 6, 2006 denied entry of the March 2, 2006 replacement drawings.

Applicant argues that the concept of new matter applies toward amendments attempting to add new disclosure to the description or drawings for the purpose of directing a claim to said new disclosure. Applicant goes on to argue that no 35 U.S.C. 112 enablement rejection was made concerning the alleged new matter to the replacement drawing and therefore the alleged new matter is not a critical feature even to those who would not otherwise know what "bosses/boss" are. Applicant further states that it was an oversight that it was not included in his non-provisional drawing and references the drawing of his provisional application.

35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. In establishing a disclosure, applicant may rely not only on the specification and drawing as filed but also on the original claims. See MPEP 608.04. A review of the March 2, 2006 replacement drawings shows support stock (bosses having orthogonal edges) protruding

from axial sides of the differential case. The original drawings show no such support stock or bosses. A review of the original specification and claims shows that there is no written description of the support stock or bosses. A comparison of the differentials shown in the drawings of applicant's provisional application no. 60/254,901 with the differential of the present invention shows completely different wall structure in the differential case. Although the provisional drawings show bosses, the bosses shown are tapered as opposed to the orthogonal edged bosses in the March 2, 2006 replacement drawings. Further, the walls in the provisional application show members 21, 22 fixed to their interior opposite the tapered bosses. The walls of the present differential have cutouts on their interior that receive what appear to be bearings and the ends of gear case 9 and bevel gear 12. It is clear that the support stock or bosses included in the March 2, 2006 replacement drawings are new to the disclosure of the present application and are, therefore, new matter. The examiner was correct in refusing entry of the March 2, 2006 drawings.

The application will be promptly returned to the examiner for consideration of the amendment of November 20, 2006.

Telephone inquiries relative to this decision should be directed to Supervisory Patent Examiner Charles Marmor at (571) 272-7095.

SUMMARY: The petition is **DENIED**. The replacement drawing of March 2, 2006 will not be entered.



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KM/cm:12/6/06